



SUMMARY REPORT

---

**Agenda Date:** 7/11/2023

---

**To:** Board of Supervisors

**Department or Agency Name(s):** County Counsel's Office, County Administrator's Office

**Staff Name and Phone Number:** Petra Bruggisser, 565-2421

**Vote Requirement:** 4/5th

**Supervisorial District(s):** All

**Title:**

First Amendment to Legal Services Agreement with Megan Somogyi at Downey Brand LLP

**Recommended Action:**

Authorize County Counsel to execute a first amendment to the legal services agreement with Megan Somogyi at Downey Brand LLP for the continued provision of legal advice and representation in California Public Utilities Commission proceedings by extending the term to June 30, 2026, with no change to contract amount.

**Executive Summary:**

Following the devastating wildfires in 2017, the Board authorized the County of Sonoma to participate in proceedings at the California Public Utilities Commission (CPUC) on a variety of issues related to wildfire mitigation, power shutoff, microgrid and other related matters. Due to the highly specialized nature of these proceedings, the Board authorized the retention of legal counsel Megan Somogyi in December 2018, who has the required expertise and knowledge, both substantively and procedurally, in matters related to the public utilities industry and laws, as well as CPUC rules and procedures. Ms. Somogyi has been representing Sonoma County's interests in a dozen different CPUC proceedings since then, and the County has been extremely satisfied with Ms. Somogyi's professionalism, efficiency, expertise and knowledge.

Ms. Somogyi's current legal services agreement was authorized by the Board on October 19, 2021, and is currently set to expire on June 30, 2023. County Counsel and staff recommend extending the current agreement for a three-year term to continue the County's advocacy at the CPUC. The Board is requested to authorize County Counsel to execute a first amendment to the legal services agreement to extend its term for three years until June 30, 2026, and to increase Ms. Somogyi's hourly base rate from \$350 to \$400 to reflect current competitive market rates. No changes are needed to the total not-to-exceed contract limit of \$150,000, of which less than \$50,000 have been expended to date for Ms. Somogyi's legal services.

**Discussion:**

CPUC Proceedings

As part of Sonoma County's ongoing efforts to advocate for the needs of our community to be better prepared and more resilient to disasters, the County has initiated participation in a number of regulatory proceedings at the CPUC. Specifically, Sonoma County has been advocating for the adoption of a wide variety of quantifiable measures to ensure the effectiveness of proposed steps and action items by electric utilities to:

- reduce the risks of wildfires,
- reduce the impacts of power shutoff events,

- advocate for carbon eliminating microgrid technology,
- improve communication protocols to ensure public safety priorities,
- restructure existing underground criteria, and
- enhance the health, safety and well-being of our community, vulnerable populations, medical service providers and first responders.

To maximize impact, Sonoma has partnered with other local governments and formed a strong coalition of counties and cities to voice concerns and propose solutions on these issues, including our neighboring partners in Napa, Mendocino, Marin, and the City of Santa Rosa. Megan Somogyi is the joint legal counsel for all of these local governments which have pooled their resources together to share the cost for legal services on these matters of joint interest.

Proceedings in which Sonoma County has participated and/or continues to participate are outlined in detail in Attachment A, including:

- Rulemaking 18-10-1007 (SB 901 - Wildfire Mitigation Plan)

This rulemaking was opened in response to Senate Bill 901, which requires investor-owned electric utilities to submit annual wildfire mitigation plans.

- Rulemaking 18-12-005 (De-Energization)
- Rulemaking 17-05-010 (Rule 20A Undergrounding)

This proceeding considers “Electric Rule 20.A,” which governs the credit system that PG&E must grant to public entities toward the cost of undergrounding electrical lines.

- Application 18-12-009 (PG&E 2020 General Rate Case)

PG&E filed its 2020 general rate case to increase utility rates to cover for its proposed Community Wildfire Safety Program through 2022.

- Rulemaking 19-01-006 (Financial Stress Test)

This proceeding was opened to implement Public Utilities Code § 451.2(b), to cap utility shareholder liability for wildfire-related costs, also referred to as the “stress test.”

- Investigation 19-06-015 (2017 Sonoma County wildfires)

This investigation was opened to determine whether PG&E violated any laws, rules or requirements pertaining to the maintenance and operation of its electric facilities that were involved in igniting the 2017 fires.

- Investigation 19-11-013 (2019 PSPS Events)

This investigation reviewed the widespread power shutdowns in the Fall of 2019, including the impacts of ineffective notification and communication.

- Investigation 19-09-016 (PG&E’s Chapter 11 Bankruptcy)

This Investigation was opened to consider ratemaking and other implications of PG&E’s proposed

reorganization as the utility emerges from Chapter 11 bankruptcy.

- Rulemaking 19-09-009 (Microgrids and Resiliency Strategies)

This Rulemaking explores ways to optimize the existing resiliency programs, revamp the utilities' interconnection tariffs, and provide near-term mitigation for PSPS events.

- Rulemaking 18-03-11 (Emergency Disaster Relief Program)

This Rulemaking considers a wide variety of potential rules requiring energy, telecommunication and water utilities to take consumer protection measures, including continuity of telecommunications services before, during, and after disasters.

- Application 21-06-022 (Microgrids)

PG&E filed this application for substation microgrid solutions to mitigate PSPS impacts. The Board obtained party status in this proceeding to advocate for the Board's strategic goal on climate action and resiliency, which includes carbon eliminating microgrid technology and energy grid resiliency to reduce the impact of power loss during power shutdowns and natural disasters.

The level of Sonoma's participation in these proceedings varies greatly and ranges from simply monitoring some proceedings, submitting limited comments in others, to fully participating in the most relevant proceedings (i.e., the PSPS rulemaking, with more than a dozen of filings, workshops, testimony and in-person meetings with Commissioners and staff). The County's legal counsel, Megan Somogyi, has been instrumental in navigating these complex proceedings and coordinating responses amongst local government partners, the California State Association of Counties (CSAC), Rural County Representatives of California (RCRC), legislative staff, and other stakeholders.

Sonoma's advocacy has successfully led to the adoption of many recommendations by the CPUC, which are also detailed in Attachment A. Most notably, it has helped to establish critical communication and information sharing mandates before, during and after disasters, as well as measures for our local communities to enhance wildfire mitigation, infrastructure hardening and mandates for PG&E to develop a tree removal program as part of its post-fire system restoration. While our efforts have led to important improvements, continued work is needed to develop solutions to increase the health and resilience of social, natural, and built resources to withstand the impacts of climate change, local disaster and emergencies. One focus area is currently aimed at requesting regulatory oversight of PG&E's latest fast-trip outage program to ensure greater oversight of this program which significantly impacts our community through repeated power outages.

Sonoma will continue its advocacy efforts on all fronts to help move us forward into a more resilient future to ensure that regulatory decisions consider the needs of local governments. In addition, Sonoma continues to work with its partners and local stakeholders to develop and coordinate a response to electric infrastructure and power reliability needs in a sustainable way as part of its climate change framework. To further these goals, the assistance of specialized legal counsel at the regulatory level is essential and highly recommended.

#### Legal Services Agreement

CPUC proceedings require substantive and procedural expertise and knowledge in matters related to the

public utilities industry and laws, as well as CPUC rules and procedures.

When the County first considered participation in CPUC matters in December 2018, County Counsel, in partnership with Napa and Mendocino County Counsel, consulted with several law firms and received proposals for legal representation. At the time, Megan Somogyi was determined to be the best candidate to represent the County based on the qualifications, specialized expertise and reasonable cost estimates. On December 12, 2018, County Counsel entered into an initial legal services agreement with Megan Somogyi, and the Board subsequently approved additional agreements in February 2019, May 2020, and most recently in October 2021. The current legal services agreement was approved on October 19, 2021, for a not-to-exceed amount of \$150,000. Due to the diligence and efficiency of legal counsel, as well as the cost sharing with our local government partners, Ms. Somogyi has so far expended less than \$50,000 of the approved budget for her legal fees and costs under the current contract, leaving roughly \$105,450 still available for the proposed three-year contract extension. Staff recommends to increase Ms. Somogyi's hourly base rate from \$350 to \$400 to reflect current competitive market rates. This increase will not have any impact on the overall not-to-exceed contract amount.

County Counsel and staff continue to be impressed by the professionalism, efficacy, and advocacy skills of Megan Somogyi. She is an invaluable member of the County's legal team on all CPUC and regulatory matters, and it is recommended to extend the current legal services agreement for three years until June 30, 2026, to allow the County continued and long-term advocacy for wildfire and power shutoff resiliency, system hardening, climate action, and other related matters that are of vital importance for our communities. Sufficient funds are available in the FY 2023-24 Litigation Contingency Fund Adopted Budget..

The County will continue to work on partnerships with other local governments to share the costs for legal services on matters of joint interest.

#### County Counsel Legal Support

In addition, County Counsel time is needed to help represent the County's interests and insure adequate control and oversight in any legal representation of the County in CPUC proceedings. It is estimated that for the three-year contract extension, approximately 150 hours of additional County Counsel time may be needed to manage the legal services contract, serve as liaison for outside counsel, and take a lead role internally in supporting the proceedings through information gathering and coordination amongst various County departments. This would require an allocation of approximately \$50,000 for County Counsel time over the next three years.

#### **Racial Equity:**

##### **Was this item identified as an opportunity to apply the Racial Equity Toolkit?**

No

*INSTRUCTIONS: If 'Yes' to the above, or if equity analysis was conducted, include requisite information in this section staff's discussion, findings, and recommendations as it directly relates to this item's requested action(s).*

#### **Prior Board Actions:**

December 11, 2018: Board authorized County participation in California Public Utilities Commission wildfire

related proceedings

February 26, 2019: Board authorized funding for outside counsel Megan Somogyi to provide legal advice and representation in CPUC proceedings up to a not-to-exceed amount of \$150,000, as well as \$50,000 funding for County Counsel to oversee and coordinate this work with County staff and partner counties

April 2, 2019: Board received an informational update on the County’s participation in CPUC proceedings

April 7, 2020: Board received an informational update on the County’s participation in CPUC proceedings

May 19, 2020: Board authorized a two-year extension of the legal services agreement with Megan Somogyi for a not-to-exceed amount of \$150,000

December 8, 2020: Board received an informational update on the County’s participation in CPUC proceedings

July 20, 2021: Board received an informational update specifically on PSPS matters

October 19, 2021: Board authorized a new legal services agreement for Megan Somogyi for a not-to-exceed amount of \$150,000, as well as \$50,000 funding for County Counsel to oversee and coordinate this work with County staff and partner counties

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 23-24 Adopted</b>	<b>FY24-25 Projected</b>	<b>FY 25-26 Projected</b>
Budgeted Expenses	\$35,149	\$35,149	\$35,149
Additional Appropriation Requested			
<b>Total Expenditures</b>	<b>\$35,149</b>	<b>\$35,149</b>	<b>\$35,149</b>
<b>Funding Sources</b>			
General Fund/WA GF	\$35,149	\$35,149	\$35,149
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>	<b>\$35,149</b>	<b>\$35,149</b>	<b>\$35,149</b>

**Narrative Explanation of Fiscal Impacts:**

Funding for this agreement is included in the FY 2023-24 Litigation Contingency Fund in the Non-Departmental Budget.

The cost for County Counsel time to manage the contract is approximately \$16,700 annually or \$50,000 over the next three years. There are sufficient appropriations the FY 2023-24 Litigation Contingency Fund in the Non-Departmental Budget for this expense.

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>

---

**Agenda Date:** 7/11/2023

---


**Narrative Explanation of Staffing Impacts (If Required):**

**Attachments:**

First Amendment to Legal Services Agreement  
Exhibit A - Summary of California Public Utility Commission Proceedings

**Related Items "On File" with the Clerk of the Board:**

Click or tap here to enter text.